

On September 28, 2018, the Court Ordered Plaintiff Tharrington to file an Amended Complaint within 10 days and warned him that failure to do so would result in this case's dismissal without prejudice. (Doc. No. 7). Plaintiff has failed to comply with the Court's September 28, 2018, Order by filing an Amended Complaint and the time to do so has now expired.

Plaintiff Tharrington appears to have abandoned this case and the Court is unable proceed. This case is therefore dismissed without prejudice. Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it."); Link v. Wabash R.R. Co., 370 U.S. 626, 631-33 (1962) (although Rule 41(b) does not expressly provide for *sua sponte* dismissal, a district court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

Plaintiff Tharrington's Motion seeking a temporary transfer during the pendency of this action is denied as moot.¹

IT IS, THEREFORE, ORDERED that:

- (1) This action is dismissed without prejudice for Plaintiff's failure to file an Amended Complaint pursuant to this Court's order dated September 28, 2018.
- (2) Plaintiff's Motion seeking temporary transfer, (Doc. No. 4), is **DENIED** as moot.
- (3) The Clerk of this Court is directed to terminate this action.

Signed: January 7, 2019



Frank D. Whitney
Chief United States District Judge



¹ Even if the Motion was not moot, it would be denied for lack of merit. See Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 24 (2008) (citing Munaf v. Geren, 553 U.S. 674, 689-90 (2008) ("A preliminary injunction is an extraordinary remedy never awarded as of right."); DiBiase v. SPX Corp., 872 F.3d 224, 230 (4th Cir. 2017) (quoting Winter, 555 U.S. at 20) (to obtain a preliminary injunction, a movant must demonstrate: (1) that he is likely to succeed on the merits; (2) that he is likely to suffer irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in his favor; and (4) that an injunction is in the public interest)).